



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 7971-99
12 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board noted that the "permanent profile" issued by Army medical authorities on 7 March 1982 was advisory in nature, and did not mandate that you be accorded medical board consideration at that time, or that the duty restrictions be accepted by Navy medical authorities. In any event, it appears that your condition had improved significantly by 22 April 1982. A medical record entry of that date indicates that "at the moment her symptoms are better somehow and she is ready for full duty - see again in 2 months PRN [as needed]". You were seen on several occasions over the next few months, and again during May 1983, after which your condition appears to have become quiescent, as there are no further significant medical record entries concerning a back condition, even during your pregnancy in 1984. You received 4.0 evaluation reports for the remainder of your enlistment, and there is no indication that your ability to perform your duties was compromised. You underwent a pre-separation physical examination on 18 August 1986, and apparently failed to disclose any significant back complaints at that time, as none are noted on the examination report. You were found physically qualified for discharge on that date, and were discharged on 13 September 1986, at the expiration of your enlistment. You reenlisted in the Naval Reserve

on 7 February 1987. It is unclear if you underwent a physical examination prior to reenlisting, but you did certify that you were fully qualified for reenlistment. There is no evidence that there was something "drastically wrong" with your back during the 1981-1988 period. In this regard, the Board noted that you were examined by a civilian physician during September 1988, and apparently disclosed that your back pain had been intermittent since eschewing further military medical care for the condition, presumably in 1983. You reported that the pain had gotten progressively worse over the past few months.

The Board does not dispute your contention that you suffered from back pain during your military service; however, it is not persuaded that your back condition rendered you unfit to perform your duties. It should be noted that although the Department of Veterans Affairs assigns disability ratings without regard to the issue of fitness for military service, the military departments may award ratings only in those cases where the service member has been found unfit for duty. No condition is unfitting per se, and even if you had been diagnosed with a bulging or herniated disc during your career in the Navy, it is unlikely that you would have qualified for disability retirement, given your continued excellent performance of duty until you elected to terminate your career.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director